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C O N F I D E N T I A L SECTION 01 OF 03 TBILISI 002645

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DEPARTMENT FOR EUR/CARC

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TAGS: [PGOV](#) [PREL](#) [GG](#)

SUBJECT: SUPREME COURT CHAIRMAN ON JUDGES' TRAINING, ETHICS  
CODE

REF: A. TBILISI 767

[1](#)B. TBILISI 1299

[1](#)C. TBILISI 2131

Classified By: Ambassador John F. Tefft for reasons 1.4 (b) and (d).

[1](#)1. (U) Summary: The Chairman of the Supreme Court of Georgia, Konstantin Kublashvili, recently updated Ambassador on two milestones of judicial reform expected by the end of October: enrolling students in the High School of Justice (HSOJ) and approval by the Conference of Judges of an Ethics Code for Judges. Kublashvili said that the staff has incorporated provisions for rules on ex parte communications to be included in the HSOJ curriculum. He readily admitted that more needs to be done to inform the public of actual progress on judicial reforms. He cited statistics to support increasing judicial independence: out of 2700 cases heard so far this year in first instance courts, private individuals or firms prevailed over the government in 2000 of them. He announced that he will be publishing statistics of the number of disciplinary cases filed against judges to show how the number of malfeasance cases is dropping. He expressed appreciation for ABA/CEELI judicial training, and noted that this has led to more efficient and expedient trials. End Summary.

[1](#)2. (U) On October 16, the Ambassador met with the Chairman of the Supreme Court of Georgia, Konstantin Kublashvili, to discuss opening the High School of Justice (HSOJ), implementing the Ex Parte Communication Law, heightening public awareness of judicial reforms and progress, training for sitting and new judges, and clarifying a GoG grant of land for an apartment building to the Judges' Association (ref C).

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HSOJ -- It's Time for Class  
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[1](#)3. (U) Kublashvili told the Ambassador about the ongoing competitive selection of judges, some of whom would immediately be placed on the bench, and others who would attend the HSOJ beginning at the end of October. He told Ambassador that the school would start enrolling up to 20 students on October 29-31, and that the curriculum was ready (refs A and B). New rules prohibiting ex parte communications will be taught under the instructional block entitled "Behavior of Judges." Two tests will be administered during the 14-month course, with a final exam upon completion. It is still undecided whether judges who graduate will serve on magistrate courts or on city courts. Currently, the plan is that judges will attend the HSOJ, sit as judges for 2-3 years, and then receive lifetime appointments. Kublashvili said that the Association of Judges drafted an Ethics Code for Judges which he shared with

Ambassador. Besides the code, another element reinforcing ethical behavior is changes to the Law on Discipline, as recommended by the Venice Commission. Kublashvili told the Ambassador that the association, the Judges of Georgia (JoG), has approved an Ethics Code for Judges which will be presented to the larger, 200 member Conference of Judges on October 20. He anticipates that the code will be adopted during this session. When the Ambassador asked how the JoG, whose membership is voluntary, could enforce such a code, Kublashvili replied that this is not an issue, because all but 15 judges belong to it. Separate discussions after the meeting clarified that inappropriate conduct by judges is to be reported to the High Council of Judges, whose Disciplinary Collegium would decide on fines or more strict censure.

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Ex Parte Communications--Making an Impact  
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¶4. (U) With regards to the impact of the new law prohibiting ex parte communications with judges, Kublashvili said it has been difficult to get the word out about its requirements, despite their importance. Only half of the most recent group of candidates for judge, had heard of the law and knew its implications. However, as evidence of its implementation among sitting judges, he stated that according to what he has been told by a Tbilisi City Court judge, that where that official had had 100 calls from prosecutors and family members of the accused, he now receives only 10 calls, all of which are from relatives and friends and none from prosecutors. Kublashvili said that prosecutors know all too well now what the consequences will be should they attempt to communicate with judges outside the courtroom.

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A Taste of Judicial Reform for the Masses  
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¶5. (U) Kublashvili recognized that more needs to be done to inform the public about judicial reform. He said he is considering organizing a conference in November to which the diplomatic community and the press would be invited. There he will share the High Council of Justice's criteria for appointment of judges and for choosing which will receive training at the HSOJ (ref B). He explained that under the law, there are no specific criteria for these choices, so the HSOJ established criteria after studying those used in other countries. The Ambassador recommended that Kublashvili also consider including information about the law on ex parte communications and what it means for the average citizen, as well as the meaning of the new Code of Ethics for Judges. Both new steps will go a long way to improving public perception and building confidence in the judiciary, he said. Kublashvili highlighted plans to allow cameras into courtrooms, responding to vociferous complaints by the media in July, when a new law banned journalists from bringing video equipment into the courtroom. He said the court is not opposed to proceedings being filmed, but rather the disruptive element that journalists inject whenever they are permitted to do so. Kublashvili emphasized that while the recordings would not be shared with everyone, if a question is raised about the actual events during the proceedings, documented footage could be provided to quash rumors of improprieties. He said transparency is particularly needed in high profile cases, such as that of Irakli Okruashvili, and he thinks recordings will prevent conspiracy theories from blossoming.

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Why Training Matters  
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¶6. (U) Kublashvili thanked the Ambassador for training provided by ABA/CEELI and said he would welcome opportunities

to incorporate intellectual property rights (IPR) into its curriculum when the time is right. He recognized that poor protection of IPR is not only an impediment for a Free Trade Agreement between Georgia and the US, but it would impede such agreements with other countries as well. He believes the mock trials conducted by ABA/CEELI trainers to familiarize judges and lawyers with the soon-to-be-introduced jury trials was particularly helpful. Kublashvili added that "Benchbooks" were particularly helpful to judges in making sounder and speedier decisions. He said that out of 3,000 administrative cases this year, at all levels, the average time for a trial to be completed is 17 months, which is better than in most courts in Europe. Kublashvili stated that the court hopes to use plea bargaining more often than in the 51 percent of criminal cases in which it currently is used. The Ambassador stressed that plea bargaining can be an effective tool, but a defendant's plea must be ratified in the presence of a judge, and there should be no perception of coercion. The Ambassador asked for clarification of figures that the Chairman had quoted to him during an earlier visit with regards to percentage of cases won by private persons or firms against the government. Kublashvili said in the first six months of this year, there were 2700 cases filed in courts of first instance by private citizens or firms against government entities. Two thousand of these cases resulted in judgments in favor of the citizen or firm. The implication for Kublashvili is that private entities are getting a fairer hearing, as measured by the number of cases they are winning.

He added that in tax cases, half were resolved in favor of the taxpayer. With regards to corruption, he said that the number of judges receiving disciplinary sanctions is substantially less now than previously. This information will soon be published in a brochure for public dissemination. He agreed to provide the figures he quoted to the Ambassador, along with a copy of the brochure, by October 126. The Ambassador underlined the importance of continuing education for judges, and the necessity for judges to enthusiastically embrace training in order to maintain their professional qualifications.

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Apartments for Judges -- Overcome by Events  
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17. (U) Kublashvili addressed concerns raised by some members of the opposition about the transfer of land to the judges' association, on which an apartment building is to be built, in which judges will be allowed to purchase apartments at a reduced cost for their own personal use (ref C). He said that it was never planned that the government would give judges land directly, but that the judges through their association,

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Temida, were to purchase apartments by taking out loans through local banks. In the end, the judges ran out of time to make such banking arrangements, and so the end result was that neither land nor apartments were purchased. Kublashvili told Ambassador that such arrangements exist for judges in other European countries, and although there was controversy over the anticipated purchases, it would not have been without precedent. Ambassador stressed while such a plan could technically have been within the legal framework, judges are held to a higher standard and that the perception was that they were receiving preferential treatment.

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Comment  
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18. (C) Although the HSOJ has a curriculum and a plan to implement the ex parte communications law, details concerning the syllabi, assignment of tasks, and how those affected by the ex parte communications law are informed about it are still very fuzzy. While Kublashvili noted that students would be registered at the HSOJ by the end of October, he did not say that classes would start then. U.S. regional legal

experts assess the proposed Code of Ethics for Judges as quite good, but the question remains whether the JoG has the power to enforce it, especially against non-members. A new wrinkle is the 2-3 year "probationary" period Kublashvili discussed before which judges receive lifetime tenure in their positions. While Kublashvili and his staff have indeed met a number of milestones on the road to a fair, efficient judiciary, more effort needs to be focused on informing the public about what has been done. This could be done through television and press conferences, but the message needs to be reiterated often, loudly, and for more than one news cycle. Post will continue to work with the HSOJ and the Supreme Court to encourage them to open the HSOJ in October as promised, and will push both organizations to formulate a public campaign to share the accomplishment of these significant milestones.

TEFFT